



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
03/863,410	07/03/97	JAMES C KRAY	

JAMES C KRAY
1493 CHAIN BRIDGE ROAD
SUITE 300
MCLEAN VA 22101

1991/0624

EXAMINER
JOHN P. DUNN

ART UNIT	PAPER NUMBER
1700	5

DATE MAILED:

06/14/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	08/834,419	Applicant(s)	FRAAS et al
Examiner	T. Mc Malon	Group Art Unit	1764

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 4/14/98.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-23 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-20, 22, 23 is/are rejected.

Claim(s) 21 is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of References Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other _____

Office Action Summary

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

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examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

5. Claims 1-4, 6-7, 9, 11-14, 16-19, 22 and 23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Selep et al. (US Patent 4,397,657).

Selep et al. teaches sweeping the coal with nitrogen followed by sweeping with product gas and then with steam before gasification of the coal. If Selep et al. fails to teach any structural element or process step of the above mentioned claims

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it would have been obvious to add such elements and steps to aid in gasification of the coal.

6. Claims 5, 8, 10, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selep et al. (US Patent 4,397,657).

Selep et al. teach an apparatus and process similar to that set forth in the above mentioned claims but does not teach using vibrating the coal or using ceramic balls to aid in heating. It would have been obvious to a routineer in the art to use vibration and ceramic balls in the device of Selep et al. to aid in mixing and preheating of the coal as these are known methods of mixing and preheating.

7. Applicant's arguments filed April 14, 1998 have been fully considered but they are not persuasive.

Applicants argue that the Selep et al. reference does not teach an apparatus for "preheating the coal" nor an apparatus for "removing oxygen from the coal". The examiner maintains that the device of Selep et al. clearly teaches preheating by using combustion gas and removing oxygen by using nitrogen or combustion gases as a sweep gas. Applicants argue that the

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examiner has failed to supply a prior art reference to show "use of vibration" and using "ceramic balls". It appears that applicants are arguing that they are the first to use vibration and or ceramic balls in coal pyrolysis, but the examiner maintains his position that such would have been obvious to a routineer in the art.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

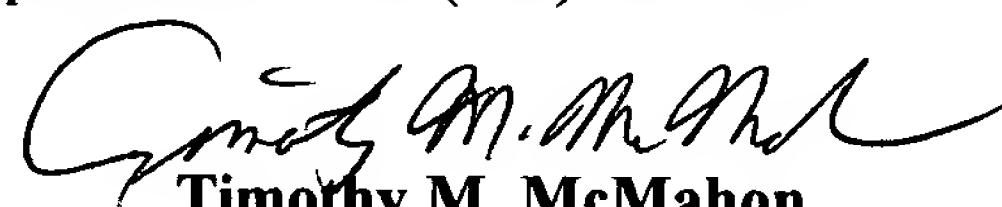
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. McMahon, whose telephone number is (703) 308-4030. The examiner can normally be reached Monday thru Friday from 9:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Caldarola, can be reached at (703) 305-6118. The fax phone number for this Group Art Unit is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0651.

June 23, 1998
tmcm


Timothy M. McMahon
Primary Examiner
Art Unit 1764